

REMARKS

I. Introduction

Claims 1-24 are pending in the application. In the Office Action dated May 12, 2009, the Examiner rejected claims 22-24 under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 7,028,082 ("Rosenberg"), or in the alternative rejected claims 22-24 under 35 U.S.C. § 103(a) as being unpatentable over Rosenberg. Additionally, claims 1, 3, 5-13, 16, 17, and 19-21 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosenberg in view of U.S. Pat. No. 7,272,629 ("Yamaura"); claims 2, 4, 14, 15, and 18 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosenberg in view of Yamaura and U.S. Pat. No. 6,643,621 ("Dodrill"); claims 1, 13, and 17 were rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Pat. No. 6,567,847 ("Inoue"); and claims 22-24 were rejected under 35 U.S.C. § 102(e) as being anticipated by Inoue, or in the alternative claims 22-24 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Inoue.

In this Amendment, Applicants have amended claims 1, 4-7, 9-11, and 13-24. Applicants request reconsideration in light of the amendments to the claims and the following remarks.

II. The Proposed Combination of Rosenberg, Yamaura, and Dodrill Does Not Render Independent Claim 1 Unpatentable

Amended independent claim 1 generally recites that a list presenting unit is operable to present on a vehicle onboard apparatus a list of music data available for purchase at the vehicle onboard apparatus and that a server data transmitting/receiving unit is operable to transmit to the vehicle onboard apparatus desired music of the list of music available for purchase in response to a selection and purchase by the user at the vehicle onboard apparatus of the desired music data of the list of music data available for purchase. Rosenberg, Yamaura, and Dodrill fail to teach this element.

Rosenberg is directed to a personalized audio system and method. In Col. 9, line 42-56, a user may select a purchase button on the Rosenberg system to purchase a song that is currently being played. If the user is permitted to purchase the song being played, the Rosenberg system may create a decrypted copy of the song that the

user may listen to whenever the user desires. Rosenberg does not teach a user selecting music data to be purchased at a vehicle onboard apparatus from a list of music data available to be purchased and does not teach transmitting purchased music data to a vehicle onboard apparatus in response to the user selecting and purchasing the music as recited in amended claim 1.

Yamaura and Dodrill also fail to teach that a list presenting unit is operable to present ***on a vehicle onboard apparatus*** a list of music data available for purchase at the vehicle onboard apparatus and that a server data transmitting/receiving unit is operable to transmit ***to the vehicle onboard apparatus*** desired music of the list of music available for purchase in response to a selection and purchase by the user at the vehicle onboard apparatus of the desired music data of the list of music data available for purchase. For at least this reason, the combinations of Rosenberg, Yamaura, and Dodrill do not render unpatentable amended independent claim 1 or any claim that depends on claim 1.

III. The Proposed Combination of Rosenberg, Yamaura, and Dodrill Does Not Render Independent Claim 13 Unpatentable

Amended independent claim 13 generally recites that a selecting unit of a vehicle onboard apparatus is operable for a user to select desired music from a list of music data available for purchase at the vehicle onboard apparatus and a reproducing unit of the vehicle onboard apparatus is operable to receive music data corresponding to the music data of the list of music data available for purchase at the vehicle onboard apparatus selected and purchased by the user at the selecting unit that has been transmitted from the server apparatus in response to selection and purchase of the music data of the list of music data available for purchase at the vehicle onboard apparatus by the user. As discussed above Rosenberg, Yamura, and Dodrill fail to teach these elements. For at least this reason, the combinations of Rosenberg, Yamura, and Dodrill do not render unpatentable amended independent claim 13 or any claim that depends on claim 13.

IV. The Proposed Combination of Rosenberg, Yamaura, and Dodrill Does Not Render Independent Claim 17 Unpatentable

Amended independent claim 17 generally recites that a list presenting unit is operable to present to a vehicle onboard apparatus a list of music data available for purchase at the vehicle onboard apparatus and a server data transmitting/receiving unit is operable to transmit to the vehicle onboard apparatus music data of the list of music data available for purchase selected and purchased at the vehicle onboard apparatus in response selection and purchase of the music data of the list of music data available for purchase at the vehicle onboard apparatus. As discussed above Rosenberg, Yamura, and Dodrill fail to teach these elements. For at least this reason, the combinations of Rosenberg, Yamura, and Dodrill do not render unpatentable amended independent claim 17 or any claim that depends on claim 17.

V. Rosenberg Does Not Render Claim 22 Unpatentable

Independent claim 22 recites selecting a decoder used to reproduce content on a vehicle onboard apparatus based on a desired medium. Rosenberg fails to teach this element.

In the Office Action, the Examiner cites paragraph [0043] of the present application discussing different decoders corresponding to different media types, and that decoders are used when retrieving data from a server before providing music data to an amplifier for output from a speaker. Further, the Examiner asserts that because Fig. 2 of Rosenberg shows a decoder receiving audio data that is amplified and output a speaker, Rosenberg clearly shows the use of a decoder. (See Office Action dated May 12, 2009, pages 5-6). Applicants submit that the general use of a decoder is not the same action as selecting a decoder or selecting a decoder based on a medium as recited in claim 22. Further, Applicants note that while the Examiner has asserted that “[i]t is uncontestable that selecting a decoder to reproduce a content based on desired medium is the most widely used way multimedia reproduction systems. It would have been obvious to do so in order to enable Rosenberg’s system to select a suitable decoder for reproducing a multimedia content based on a particular media type,” the Examiner has cited no support for this assertion. (See Office Action dated May 12,

2009, pages 7-8). If the Examiner is attempting to take Official Notice that the action of selecting a decoder based on a medium is well known, Applicants respectfully request that the Examiner explicitly state this.

Applicants maintain that while Rosenberg may state that the Rosenberg system may include a decoder, Rosenberg fails to make any mention of selecting a decoder, or selecting a decoder based on a medium as recited in claim 22. For at least this reason, Rosenberg does not anticipate, or render obvious, independent claim 22 or any claim that depends on claim 22.

VI. Inoue Does Not Render Independent Claim 1 Unpatentable

Amended independent claim 1 generally recites that a list presenting unit is operable to present on a vehicle onboard apparatus a list of music data available for purchase at the vehicle onboard apparatus and that a server data transmitting/receiving unit is operable to transmit to the vehicle onboard apparatus desired music of the list of music available for purchase in response to a selection and purchase by the user at the vehicle onboard apparatus of the desired music data of the list of music data available for purchase. Inoue does not teach a user selecting music on a vehicle onboard apparatus for purchase and music data being transferred to the vehicle onboard apparatus in response to selection and purchase by the user at the vehicle onboard apparatus of the music data.

Inoue is directed to a data transmitting and receiving system. Generally, Inoue teaches a system where a user may upload a data file to a server and then another user can download the uploaded data file. Inoue teaches that in some implementations, a user that downloads the uploaded data file may be charged a monetary amount. However, Inoue does not teach these operations in the context of a vehicle onboard apparatus where a user may select and purchase music data on a vehicle onboard apparatus and the music data is transmitted to the vehicle onboard apparatus in response to a selection and purchase by the user of the desired music at the vehicle onboard apparatus.

For at least this reason, Inoue does not anticipate, or render obvious, amended independent claim 1 or any claim that depends on claim 1.

VII. Inoue Does Not Render Independent Claim 13 Unpatentable

Amended independent claim 13 generally recites that a selecting unit of a vehicle onboard apparatus is operable for a user to select desired music from a list of music data available for purchase at the vehicle onboard apparatus and a reproducing unit of the vehicle onboard apparatus is operable to receive music data corresponding to the music data of the list of music data available for purchase at the vehicle onboard apparatus selected and purchased by the user at the selecting unit that has been transmitted from the server apparatus in response to selection and purchase of the music data of the list of music data available for purchase at the vehicle onboard apparatus by the user. As discussed above, Inoue fail to teach these elements. For at least this reason, Inoue does anticipate, or render obvious, amended independent claim 13 or any claim that depends on claim 13.

VIII. Inoue Does Not Render Independent Claim 17 Unpatentable

Amended independent claim 17 generally recites that a list presenting unit is operable to present to a vehicle onboard apparatus a list of music data available for purchase at the vehicle onboard apparatus and a server data transmitting/receiving unit is operable to transmit to the vehicle onboard apparatus music data of the list of music data available for purchase selected and purchased at the vehicle onboard apparatus in response selection and purchase of the music data of the list of music data available for purchase at the vehicle onboard apparatus. As discussed above, Inoue fails to teach these elements. For at least this reason, Inoue does not anticipate, or render obvious, amended independent claim 17 or any claim that depends on claim 17.

IX. Inoue Does Not Render Independent Claim 22 Unpatentable

Independent claim 22 recites selecting a decoder used to reproduce content on a vehicle onboard apparatus based on a desired medium. In the Office Action, the Examiner asserts that Inoue teaches the use of a decoder and that it would have been obvious to select a decoder based on a desired medium. Applicants respectfully disagree. As discussed above, Applicants submit that the general use of a decoder is

not the same action as selecting a decoder or selecting a decoder based on a medium as recited in claim 22.

Further, Applicants note that while the Examiner has asserted that "[i]t is uncontestable that selecting a decoder to reproduce a content based on desired medium is the most widely used way multimedia reproduction systems. It would have been obvious to do so in order to enable Inoue's system to select a suitable decoder for reproducing a multimedia content based on a particular media type," the Examiner has cited no support for this assertion. (See Office Action dated May 12, 2009, page 18). If the Examiner is attempting to take Official Notice that the action of selecting a decoder based on a medium is well known, Applicants respectfully request that the Examiner explicitly state this.

The Examiner has not established a *prima facie* case that Inoue teaches selecting a decoder used to reproduce content on a vehicle onboard apparatus based on a desired medium. For at least this reason, the present rejection of claims 22-24 as being anticipated by, or render obvious by, Inoue cannot be maintained.

X. Conclusion

In view of the amendments to the claims and the foregoing remarks, Applicants submit that the pending claims are in condition for allowance. If there are any questions concerning this Response, the Examiner is asked to phone the undersigned attorney at (312) 321-4200.

Respectfully submitted,

/Scott W. Brim/
Scott W. Brim
Registration No. 51,500
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. BOX 10395
CHICAGO, ILLINOIS 60610
(312) 321-4200